

MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Rincon Park Master Plan

PROJECT FILE NUMBER: PP16-077

PROJECT DESCRIPTION: The project is the Rincon Park Master Plan, which identifies future park improvements to the vacant site including a turf area, fitness stations, two children's playground areas a shaded picnic area, reflection area, and a half basketball court.

PROJECT LOCATION & ASSESSORS PARCEL NO.: The project site is located at the northeast corner of Kerley Drive and Rosemary Street on an approximately 0.9 gross acre site. The Assessor's Parcel Number (APN) is 235-05-010 on the Santa Clara County Assessor's Parcel Map.

COUNCIL DISTRICT: 3

APPLICANT CONTACT INFORMATION: Mike Pruitt, City of San Jose Department of Public Works, 200 East Santa Clara Street 6th Floor, San Jose, CA 95113

FINDING:

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

- I. AESTHETICS.** The project will not have a significant impact on aesthetics or visual resources, therefore no mitigation is required.
- II. AGRICULTURE AND FOREST RESOURCES.** The project will not have a significant impact on agriculture or forest resources, therefore no mitigation is required.

- III. AIR QUALITY.** The project will not have a significant impact on air quality, therefore no mitigation is required.
- IV. BIOLOGICAL RESOURCES.** The project could potentially impact nesting birds, including those protected by the Migratory Bird Treaty Act.

Mitigation Measure BIO-1:

If possible, construction shall be scheduled between September 1 and January 31 to avoid the nesting season for raptors and other migratory birds. If this is not possible, pre-construction surveys for nesting raptors and other migratory birds shall be conducted by a qualified biologist (certified for raptors and other birds) or ornithologist to identify active nests that may be disturbed during project implementation onsite and within 250 feet of the site. Between February 1 and April 30, pre-construction surveys shall be conducted for raptors and nesting birds within 14 days prior to the initiation of ground disturbing activities, tree relocation, or tree removal. Between May 1 and August 31, pre-construction surveys shall be conducted no more than 30 days prior to the initiation of these activities. Pre-construction surveys will be conducted by a qualified biologist/ornithologist for nesting birds and raptors within the onsite trees as well as all trees within 250 feet of the site.

If an active nest is found in or close enough to the construction area to be disturbed by these activities, the biologist/ornithologist, shall, in consultation with the California Department of Fish and Wildlife (CDFW), designate a construction-free buffer zone (typically 250 feet for raptors and 100 feet for other birds) around the nest, which shall be maintained until after the breeding season has ended and/or a qualified biologist/ornithologist has determined that the young birds have fledged.

The project sponsor shall submit a report from the biologist/ornithologist to the City's Environmental Supervising Planner indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building, and Code Enforcement prior to any ground disturbance.

- V. CULTURAL RESOURCES.** The project will not have a significant impact to cultural resources, therefore no mitigation is required.
- VI. GEOLOGY AND SOILS.** The project will not have a significant impact due to geology and soils, therefore no mitigation is required.
- VII. GREENHOUSE GAS EMISSIONS.** The project will not have a significant impact due to greenhouse gas emissions, therefore no mitigation is required.
- VIII. HAZARDS AND HAZARDOUS MATERIALS.** The project will not have a significant impact due to hazards and hazardous materials, therefore no mitigation is required.
- IX. HYDROLOGY AND WATER QUALITY.** The project will not have a significant hydrology and water quality impact, therefore no mitigation is required.
- X. LAND USE AND PLANNING.** The project will not have a significant land use impact, therefore no mitigation is required.

- XI. MINERAL RESOURCES.** The project will not have a significant impact on mineral resources, therefore no mitigation is required.
- XII. NOISE.** The project will not have a significant noise impact, therefore no mitigation is required.
- XIII. POPULATION AND HOUSING.** The project will not have a significant population and housing impact, therefore no mitigation is required.
- XIV. PUBLIC SERVICES.** The project will not have a significant impact on public services, therefore no mitigation is required.
- XV. RECREATION.** The project will not have a significant impact on recreation, therefore no mitigation is required.
- XVI. TRANSPORTATION / TRAFFIC.** The project will not have a significant traffic impact, therefore no mitigation is required.
- XVII. UTILITIES AND SERVICE SYSTEMS.** The project will not have a significant impact on utilities and service systems, therefore no mitigation is required.
- XVIII. MANDATORY FINDINGS OF SIGNIFICANCE.** The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **October 14th** any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only;
or
2. Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Harry Freitas, Director
Planning, Building and Code Enforcement


Deputy

Circulation period, from September 23, 2016 to October 14, 2016